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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 BARTHOLOMEW JOYCE,
8 Plaintiff,

9 v.

10 RON BOEING, *et al.*,
11 Defendant.

Case No. C08-5684FDB

REPORT AND
RECOMMENDATION

Noted for February 20, 2009

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13 This matter has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§
14 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. The matter is
15 before the court because Plaintiff has failed to cure deficiencies in his application to proceed *in forma*
16 *pauperis* and the U.S. Postal Service returned the court's order to show cause as undeliverable. After
17 reviewing the record, it is recommended that the Court dismiss plaintiff's causes of action.

18 FACTUAL AND PROCEDURAL BACKGROUND

19 Plaintiff, Bartholomew Joyce, submitted a Complaint along with an application to proceed *in*
20 *forma pauperis*. On November 17, 2008, the Court Clerk sent a letter to Plaintiff informing him that
21 the application was deficient, and on January 5, 2009, the court issued an order directed Plaintiff to cure
22 those deficiencies by not later than January 23, 2009. On January 12, 2009, plaintiff's copy of the
23 court's order to show cause was returned to the Clerk of the court by the postal service. The Clerk's
24 office used the address provided by Plaintiff. Plaintiff has not responded to the court's order, and
25 Plaintiff has not contacted the court or clerk's office to provide the court with a current address.

26 DISCUSSION

27 It is the *pro se* plaintiff's responsibility to keep the clerk informed of his or her current address to
28 ensure timely notification of court action. Local Rule CR 41(b)(2) states:

1 A party proceeding pro se shall keep the court and opposing parties advised as to his
2 current address. If mail directed to a pro se plaintiff by the clerk is returned by the Post
3 Office, and if such plaintiff fails to notify the court and opposing parties within 60 days
thereafter of his current address, the court may dismiss the action without prejudice for
failure to prosecute.

4 Here, the clerk sent the a copy of the court's show cause order on or about January 5, 2009, but
5 the document was returned to the court clerk by the postal service because plaintiff was no longer at the
6 address provided by plaintiff in his initial pleadings. The court is unaware of plaintiff's current place of
7 residence or confinement. Moreover, the application to proceed in forma pauperis is deficient. Plaintiff
8 was advised of the deficiencies by the Clerk in its letter dated November 17, 2008, which was not
9 returned as undeliverable, and Plaintiff has not responded.

10 CONCLUSION

11 Based on the foregoing discussion, the Court should dismiss this matter without prejudice for
12 failure to prosecute. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
13 Procedure, the parties shall have ten (10) days from service of this Report to file written objections. *See*
14 *also* Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for purposes of
15 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the
16 clerk is directed to set the matter for consideration on **February 20, 2009**, as noted in the caption.

17 Dated this 28th day of January, 2009.

18 /s/ J. Kelley Arnold
19 J. Kelley Arnold
20 United States Magistrate Judge
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